

REMARKS

By this Amendment, an Abstract of the Disclosure is submitted on a separate sheet and claims 1 and 10 are amended. Claims 1 and 10 were amended to correct minor typographical errors. Favorable reconsideration is respectfully requested.

Claim Rejections - 35 USC § 102. The Office Action rejected claims 1-4, 6, 10, 12, and 14-17 as being anticipated by Battle (U.S. Patent No. 5,463,187). Applicant submits that the Battle patent fails to teach and suggest each and every feature and limitation set forth in the rejected claims. Therefore, the rejected claims are not properly anticipated by Battle.

The present invention is directed to a multiple channel duct assembly for cables that is sufficiently flexible that it can be coiled around transportable reels, such as reels having a diameter of about two meters. Specification, page 14, lines 20-21. The multiple channel duct assembly is fabricated in very long lengths, even longer than one kilometer. Specification, page 14, lines 23-24.

In contrast, the Battle patent discloses an assembling-type multiple channel duct system. Assembling-type duct systems are distinctly different than coiling-type duct systems of the present invention. The duct system of Battle must be manually assembled at the job site, using 20 foot length sections that may be joined end-to-end with specially configured couplings. See, Battle, column 2, line 67; column 3, lines 1, 19-23. While Battle's multiple channel duct system may be bent, it cannot be bent sufficiently to coil around a transportable reel. The minimum arc radius is 10 feet corresponding to a minimum circle diameter of 20 feet, which much larger than conventional reels. Battle, column 5, lines 53-54; column 8, line 26.

The pending claims recite that the plurality of plastic inner ducts are "contiguous, co-directionally extending, substantially parallel, in abutting contact with each other." The term "contiguous" means: "being in actual contact: touching along a boundary" and "touching or connected throughout in an unbroken sequence." Webster's Ninth New Collegiate Dictionary, 1991. The term "abutting" means "to touch along a border" and "to border on : TOUCH." Webster's Ninth New Collegiate Dictionary, 1991. As seen in

Figures 2, 3, 4, 6, 7, 8, 9, 10, and 11, the inner ducts are in actual contact and touch along a boundary; they border on and touch adjacent ducts in contiguous, abutting contact.

The claims also recite that the plastic outer duct encircles the "inner ducts over their entire length to retain them in their contiguous relationship." Figures 2, 6, 7, 8, 9, 10, and 11 show the outer duct encircling the inner ducts to retain them in their contiguous relationship.

In contrast, the Battle patent discloses a multiple channel duct system in which the inner ducts are spaced apart from each other and from the outer duct. As shown clearly in Figures 1 and 3 of Battle, the inner ducts are not in contiguous, abutting contact. In addition, the Battle's outer duct does not retain the inner ducts "in their contiguous relationship." Battle uses special coupling structures to keep the inner ducts spaced apart from each other and from the outer duct. In addition, Battle teaches that the ends of the inner ducts (19) extend within coupler 21 and are stopped by annular stop (41), as shown in Figure 3. Battle, column 6, lines 24-26. Thus, the annular stop (41) stops the ends of the inner ducts from touching.

In view of the foregoing, the Battle patent fails to teach and suggest each of the features and limitations set forth in the rejected claims. Therefore, Applicant requests withdrawal of the rejection of claims 1-4, 6, 10, 12, and 14-17.

Claim Rejections - 35 USC § 103. The Office Action rejected claims 5, 7-9, 11, 13, and 18-20 under Section 103(a) as being unpatentable over Battle. The Office Action acknowledged that Battle fails to teach and suggest the features set forth in the rejected claims, but argued that such features were "an obvious matter of design choice." Applicant respectfully disagrees. Given the fact that Battle fails to teach and suggest each of the limitations from the independent claims, Applicant submits that the rejected dependent claims 5, 7-9, 11, 13, and 18-20 are in condition for allowance. Withdrawal of the rejection under Section 103(a) is requested.

If there are any remaining issues preventing allowance of the pending claims, the Examiner is requested to telephone the undersigned.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached page is captioned "Version with markings to show changes made."

Respectfully submitted,



Evan R. Witt
Reg. No. 32,512
Attorney for Applicant

Date: December 3, 2002

MADSON & METCALF
Gateway Tower West
15 West South Temple, Suite 900
Salt Lake City, Utah 84101
Telephone: 801/537-1700

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Claims 1 and 10 have been amended as follows:

1. (amended) A multiple channel duct assembly for cables comprising:
 - (a) a plurality of plastic inner ducts contiguous, co-directionally extending, substantially parallel, in abutting contact with each other, each of said inner ducts having [the] a cross sectional [areas] area sufficient to contain at least one cable; [and]
 - (b) a plastic outer duct encircling said inner ducts over their entire length to retain them in their contiguous relationship;
 - (c) wherein said outer duct has a corrugated tubular section including a plurality of contiguous ridges and troughs extending over the entire length; and
 - (d) whereby said assembly is [so] sufficiently flexible [that it can] to be coiled around transportable reels as well as [so] sufficiently strong [that it can] to withstand dirt in a trench.

10. (amended) A multiple channel duct assembly for cables comprising:
 - (a) a plurality of plastic inner ducts contiguous, co-directionally extending, substantially parallel, in abutting contact with each other, each of said inner ducts having [the] a cross sectional [areas] area sufficient to contain at least one cable; [and]
 - (b) a plastic outer duct encircling said inner ducts over their entire length to retain them in their contiguous relationship;
 - (c) wherein said outer duct has a corrugated tubular section including a plurality of contiguous ridges and troughs extending over the entire length, and wherein said inner ducts and said outer ducts are altogether made of polyethylene; and
 - (d) whereby said assembly is [so] sufficiently flexible [that it can] to be coiled around transportable reels as well as [so] sufficiently strong [that it can] to withstand dirt in a trench.